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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,918	11/26/2001	Jessica Broussard	10014327-1	7574

22879 7590 12/21/2005

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INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER

BECK, ALEXANDER S

ART UNIT	PAPER NUMBER
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2675

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/991,918

Applicant(s)

BROUSSARD, JESSICA

Examiner

Alexander S. Beck

Art Unit

2675

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 30 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 21-27 and 29.  
Claim(s) withdrawn from consideration: 1-20, 28 and 30-33.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.



**SUMATI LEFKOWITZ  
SUPERVISORY PATENT EXAMINER**

Continuation of 3. NOTE: The new limitations "a module configure to ... control said tilt drive and said swivel drive in accordance with the commands received from the keyboard" added to independent Claim 25 raise new issues that would require further consideration and/or search .

Continuation of 11. does NOT place the application in condition for allowance because:

1. Applicant argues that there is no suggestion or motivation to modify the apparatus of Han (e.g., non-processor controlled device) with the teachings of Brown (e.g., processor controlled device) so that the apparatus is interfaced with a processor, as interfacing a processor would greatly increase the cost and complexity of the apparatus.

Examiner respectfully disagrees. Brown discloses the use of a processor 121 to control various physical movements of a mechanical device by processing signals from user actuated buttons to discontinue/continue power to the appropriate motors (Brown: col. 7, lines 14-24; col. 10, lines 48-52). Han discloses the use of a remote controller to control various physical movements of a mechanical by signals created by user actuated buttons to transmit a wireless signal to discontinue/continue power to the appropriate motors (Han: col. 1, lines 46-59). Although not disclosed expressly, the inclusion of a processing device within the remote controller of Han to process signals from the user actuated buttons into wireless signals for transmission to the display device is inherently required. Both Han and Brown teach/suggest the use of a processor to control movement of an apparatus, as the tilt and swivel apparatus of Han is wirelessly interfaced with a processing device (i.e., remote controller). Thus, using the processing device (i.e., processor and keyboard) of Brown to include the functions provided by the processing device (i.e., remote controller) of Han would meet the limitations as presently claimed.

Moreover, in response to Applicant's argument that interfacing a processor would greatly increase the cost and complexity of the apparatus: The fact that a combination would not be made by businessmen for economic reasons does not mean that a person of ordinary skill in the art would not make the combination because of some technological incompatibility. In re Farrenkopf, 713 F.2d 714, 219 USPQ 1 (Fed. Cir. 1983) (Prior art reference taught that addition of inhibitors to radioimmunoassay is the most convenient, but costliest solution to stability problem. The court held that the additional expense associated with the addition of inhibitors would not discourage one of ordinary skill in the art from seeking the convenience expected therefrom.).

2. Applicant argues that Han and Brown are not analogous in art, as Brown and Han are not in same the field of endeavor or reasonably pertinent to the particular problem with which the Applicant was concerned.

Examiner respectfully disagrees. "The prior art that is relevant in evaluating a claim of obviousness is defined by the nature of the problem confronting the would-be inventor." Republic Industries Inc. v. Schlage Lock Co., 592 F.2d 963, 975, 200 USPQ 769, 781 (7th Cir. 1979). According to the Applicant, the problem confronted was to resolve the problem wherein "a display may not be within easy reach of the user and may not be easily manually adjusted." That problem is one of remote movement manipulation, and a search for its solution would not be limited to the field of remote movement manipulation of a display device but would include the remote movement manipulation arts in general.

asb  
12/12/05